IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Crl. Revn. No. 2501 of 2006

DATE OF DECISION : 07.12.2006

Savita

.... PETITIONER

Versus

State of Haryana and another

..... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL

Present: Mr. Rajbir Sehrawat, Advocate,
for the petitioner.

* * *

Petitioner Savita, who is complainant in case FIR No. 124 dated 29.6.2006, has filed this revision petition against the order dated 11.10.2006, passed by Additional Sessions Judge, Rohtak, whereby accused Davinder Singh (respondent No.2 herein) has been discharged.

In this case, after the investigation, challan was filed against three persons. However, at the stage of framing of charge, the trial court framed the charge only against two accused, namely Satpal and Kuldeep alias Kuli, whereas the third accused, namely Davinder Singh, has been discharged, while observing as under :-

> "... As far as accused Satpal and Kuldip are concerned, there are grounds to presume a prima facie case punishable against them for offences punishable u/s 302 read with Section 34 IPC and 201 read with Section 34 IPC. However, as far as accused Devinder is concerned, I agree with the learned defence counsel that confessional statement made by the co-accused is not admissible in evidence because that confessional statement has led to the place from where dead body was recovered. That

> place was already known to the complainant who lodged the report as well to the police who prepared the site plan on 29.6.2006. Public Prosecutor has frankly conceded enough that there is no other evidence but asserts that at the time of framing of charge, charge at least should be framed. However, I do not scribe to the view of the Public Prosecutor. There being no legal evidence on the file so as to take the ground to presume prima facie case against accused Devinder, he can not be charge sheeted. As such, accused Devinder stands discharged."

Against the said order, the petitioner has filed this revision petition.

Counsel for the petitioner contends that while discharging accused Devinder Singh, the trial court has ignored the confessional statement made by him as well as the recovery of the car used in the crime. During the arguments, counsel has not disputed the fact that the said car was not recovered in pursuance of the disclosure statement made by the petitioner. The recovery was made by the police otherwise.

After hearing counsel for the petitioner and in view of the aforesaid facts, I do not find any illegality or infirmity in the impugned order.

Dismissed.

However, if during the trial, any incriminating evidence comes against Devinder Singh, it will be open for the petitioner to move an application under Section 319 Cr.P.C., to summon him.

December 07, 2006 **(SATISH KUMAR MITTAL)**
ndj **JUDGE**